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Letter dated 1 June 2015 from the Permanent Representative of Malaysia to the United Nations addressed to the Secretary-General

I have the honour to forward to you the concept note for the Security Council open debate on children and armed conflict, which will be held on Thursday, 18 June 2015 (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

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Annex to the letter dated 1 June 2015 from the Permanent Representative of Malaysia to the United Nations addressed to the Secretary-General

Concept note
Security Council open debate on children and armed conflict, 18 June 2015

The Malaysian presidency of the Security Council will convene an open debate on children and armed conflict at the ministerial level on Thursday, 18 June 2015. The open debate will provide a platform for Member States to discuss the fourteenth annual report of the Secretary-General on children and armed conflict and assess the progress made throughout 2014 in combatting grave violations against children in situations of armed conflict.

The open debate will also seek to place emphasis on the issue of abduction of children in armed conflict and discuss how the response of the international community can be strengthened to address such situations, including through the Security Council and the tools available to it.

2014 in review: challenges and opportunities

The year 2014 has been touted as the worst year for children affected by armed conflict. During that period, children continued to disproportionately bear the brunt of suffering wrought by the grievous consequences of war and armed conflict.

The ongoing crises and violent conflict in the Central African Republic, Iraq, Nigeria, South Sudan, the Syrian Arab Republic and the State of Palestine have claimed the lives of thousands of children and disrupted the daily lives of millions of others.

The year 2014 also bore witness to extreme violence in some parts of the world and an increasing trend in mass abductions, which greatly and negatively affected children. Children have not only been targeted in increasingly brutal and violent attacks; more disturbingly, they are being used as suicide bombers and human shields by extremist groups.

The use of explosive weapons in densely populated urban environments increased children's vulnerabilities and casualties. Schools continued to be attacked, destroyed and severely damaged or militarily used by armed forces and groups, resulting in children being killed, maimed and denied access to education over prolonged periods.

In addition, the arrest and detention of children for actual or alleged association with armed groups, including with violent extremist groups, on grounds of security continued to pose a response challenge to Member States and United Nations child protection agencies.

That notwithstanding, 2014 also saw some significant successes and important progress made towards ending and preventing the recruitment and use of children by States and non-State armed groups.

The launch of the campaign "Children, Not Soldiers" in March 2014 by the Special Representative of the Secretary-General for Children and Armed Conflict and the United Nations Children's Fund (UNICEF) galvanized the commitment of eight concerned Governments to end and prevent the recruitment and use of children in national security forces by the end of 2016.

The Chadian National Army was successfully delisted from the annexes of the annual report of the Secretary-General on children and armed conflict in 2014. Six of the seven remaining countries — Afghanistan, the Democratic Republic of the Congo, Myanmar, Somalia, South Sudan and Yemen — have signed or recommitted to action plans and undertaken various measures, including releasing children from army ranks, criminalizing underage recruitment, conducting training and awareness campaigns and putting in place age-assessment mechanisms.

It is crucial that such gains be consolidated throughout the campaign period, especially in situations where conflict has re-emerged and the risks of backsliding are real. The re-emergence of conflict and emergency situations in the first half of 2015 have highlighted the need for conflict prevention and tackling root causes of conflict before they erupt.

Yet another key challenge is ensuring compliance of non-State armed groups with national and international child protection obligations. Nonetheless, the recent successful release of children associated with armed groups facilitated by United Nations actors is evidence of the progress that can be made in this regard. Following are some recent positive examples:

- In the Central African Republic, armed groups signed an agreement facilitated by the United Nations and its partners to release all children associated with their forces and immediately end any new child recruitment in early May 2015. The agreement also gives the United Nations immediate and unrestricted access to the areas under the groups' control in order to identify and verify the number of affected children and to secure their release. Over 300 children had already been released as at mid-May 2015.
- The South Sudan Democratic Movement/Army-Cobra Faction has released 1,757 children on three occasions since January 2015 to UNICEF and its partners.

On 25 March 2015, the Security Council open debate under the French presidency addressed the challenge of ending grave violations against children by non-State armed groups or actors. A non-paper (see A/69/918-S/2015/372) compiled a summary of proposals that were put forth during the open debate by Member States, which merit further consideration.

However, securing the release of children from armed groups is only the first step in the reintegration process. The trauma experienced by children during armed conflict affects children for the long term and can contribute to the recurring cycles of conflict if not appropriately dealt with or left unaddressed. The reintegration and rehabilitation of children affected by armed conflict are vital to ensuring that children are given the necessary medical, psychosocial, educational and economic support to rebuild lives and fulfil their potential.

Abduction of children in armed conflict

The abduction of children is a disturbingly prevalent feature of contemporary armed conflict and is often a precursor to or follows other grave violations against children. Children are taken by force from homes, schools and public spaces by parties to armed conflict for a range of purposes, including recruitment and use as combatants, messengers and porters; to be subjected to rape or other forms of sexual violence and forced marriage; and for ransom, retaliation and indoctrination.

The Secretary-General has reported throughout the years on how parties to conflict have used abductions in systematic campaigns of violence against civilian populations as a means of instilling fear and terror, in order to exert control or force displacement. This trend continues today in a changing landscape of conflict that is increasingly coloured by extremist groups. In 2014, several horrific cases of mass abductions were committed by extremist non-State armed groups in Nigeria, Iraq and the Syrian Arab Republic. Boko Haram sparked worldwide outrage for abducting 276 schoolgirls from Chibok, Nigeria, on 24 April 2014, and has been notorious for using abduction prior to and since the Chibok incident. In the Syrian Arab Republic and Iraq, the Islamic State in Iraq and the Levant has abducted over 1,000 children, particularly from minority communities.

From a legal perspective, abductions by parties to armed conflict may, for example, breach common article 3 of the Geneva Conventions, which guarantees humane treatment for civilians.

Moreover, the myriad consequences that can ensue from abduction include serious violations of international humanitarian law, such as forced recruitment into, and use by, armed forces or groups;[1] murder, torture and inhuman treatment;[2] rape and other forms of sexual violence;[3] slavery;[4] forced labour;[5] hostage taking;[6] use as human shields;[7] and enforced disappearances.[8] Several of these violations are also recognized as war crimes or crimes against humanity under the Rome Statute.

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[1] Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I), art. 77; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflict (Protocol II), art. 4; J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rules 136-137, *International Review of the Red Cross*, vol. 17, no. 857 (International Committee of the Red Cross, March 2005).

[2] Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, arts. 3 and 32, *Treaty Series*, vol. 75, No. 973; Additional Protocol I, art. 75; Additional Protocol II, art. 4; J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rules 89-90, *International Review of the Red Cross*, vol. 17, no. 857 (International Committee of the Red Cross, March 2005).

[3] Additional Protocol I, art. 75; Additional Protocol II, art. 4; J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rule 93, *International Review of the Red Cross*, vol. 17, no. 857 (International Committee of the Red Cross, March 2005).

[4] Additional Protocol II, art. 4; J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rule 94, *International Review of the Red Cross*, vol. 17, no. 857 (International Committee of the Red Cross, March 2005).

[5] Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, art. 51(2), *Treaty Series*, vol. 75, No. 973; Additional Protocol I, art. 75; J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rule 95, *International Review of the Red Cross*, vol. 17, no. 857 (International Committee of the Red Cross, March 2005).

[6] Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, arts. 3, 34 and 147, *Treaty Series*, vol. 75, No. 973; Additional Protocol I, art. 75; Additional Protocol II, art. 4; J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rule 96.

[7] J. Henckaerts, "Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict", rule 97.

[8] Ibid., rule 98.

Furthermore, according to the Convention on the Rights of the Child, States parties to the Convention must take appropriate bilateral, regional and multilateral measures to prevent abduction.[9]

In the light of the rampant cases of abduction in the context of armed conflict, the Security Council, the United Nations and Member States should strengthen their response to this grave violation, including by using existing tools available within its normative framework, which are not limited to and include the following:

- Monitoring and reporting: Security Council resolution 1612 (2005) recognized abduction as one of six grave violations committed against children in armed conflict and has since been monitored and reported on under the United Nations monitoring and reporting mechanism
- Listing in the annexes to the report of the Secretary-General: Security Council resolution 1379 (2001) mandated the Secretary-General to list in the annexes to his annual report parties to armed conflict that recruit and use children, in contravention of applicable international law. This listing criteria has since been expanded to include killing and maiming, rape and other forms of sexual violence, through Security Council resolution 1882 (2009), and attacks on schools and hospitals, through Security Council resolution 1998 (2011). Further expansion of the listing criteria could allow for perpetrators of abduction to be identified for the purpose of compliance through the implementation of action plans
- Targeted measures: grave violations against children, including abduction, are specific designation criteria for targeted measures under four Security Council sanctions regimes (Central African Republic, Democratic Republic of the Congo, Somalia and South Sudan)
- Peacekeeping mandates: the relevant United Nations and international peacekeeping missions have reinforced their child protection and protection of civilian mandates, and many are equipped with dedicated resources and expertise through child protection components
- Legislation and justice mechanisms: the criminalization of abduction of children under national legislation, alongside other grave violations against children, would strengthen legal protections for child victims and ensure accountability for perpetrators.

Questions and issues for discussion

The protection of children in armed conflict is best achieved through a comprehensive strategy of protection, prevention and response, which the Security Council has sought to address through 11 thematic resolutions and 10 presidential statements since 1999. In the light of the long-standing challenges and recent trends affecting children in armed conflict, Member States are invited to consider, inter alia, the following issues in their interventions:

- How can the international community better utilize available tools to end and prevent children from being abducted by parties to armed conflict?

[9] Convention on the Rights of the Child, art. 35.

- How can the Security Council and its Working Group on Children and Armed Conflict be more effective in utilizing its toolkit to respond to abduction and other violations against children?
- How can peacekeeping operations play a more active role in implementing their mandates for protecting and preventing grave violations against children, particularly abduction?
- How can concerned States be best supported to strengthen national capacity to protect children, including in the light of new challenges posed by non-State armed groups?
- How can child protection provisions, including for the prevention of abduction, best be incorporated into peace processes, negotiations and ceasefires?
- What are the best practices that have come forth in the campaign "Children, Not Soldiers" that can also be applied to other situations of armed conflict or non-State armed groups? How can the campaign be further supported to ensure that it achieves its aims by the end of 2016?
- What measures have been effective in combatting impunity for grave violations against children and how can these be applied to increase the accountability of perpetrators?
- How can conflict prevention and resolution, including tackling the root causes of conflict before they erupt, be better addressed in the overall child protection strategy? Which root causes should receive greater attention?

Participation, briefers and outcome

The open debate will be presided over by the Minister for Foreign Affairs of Malaysia, Dato' Sri Anifah Hj. Aman. The Secretary-General is expected to attend and deliver opening remarks. The Special Representative of the Secretary-General for Children and Armed Conflict, Leila Zerrougui, will present the annual report on children and armed conflict, followed by a briefing by a senior representative of UNICEF. A civil society representative to be determined will also shed insight on the impact of abduction of children in armed conflict on victims and local communities.

It is expected that a resolution will be adopted to address the issue of abduction of children.